

CHAPTER 3  
DECLARATORY RULING

[Ch 3, IAC 7/1/75 rescinded 3/7/79; see Ch 4]  
[Prior to 10/8/86, Beer and Liquor Control Department[150]]

**185—3.1(123,17A) Purpose and scope.** These rules shall govern the practice and procedure in all declaratory ruling proceedings of the alcoholic beverages division.

**185—3.2(123,17A) Declaratory rulings—general.** Upon the filing of a petition by any interested person, the division may issue a declaratory ruling with respect to the interpretation or applicability of any statutory provision, rule, or other written statement of law or policy, decision or order of the division.

**185—3.3(123,17A) Petition for declaratory ruling.**

**3.3(1) *Persons and amendments.*** Any interested person may file a petition for declaratory ruling with the division. The division may require or allow the petitioner to amend the petition once so as to provide for greater specificity in the statement of facts, questions presented, or rule, statute, or order in question.

**3.3(2) *Form of petition.*** A petition for declaratory ruling shall substantially comply with the form prescribed in 185—subrule 12.2(6). The original and three copies of the petition and amendment, if any, shall be filed with the division.

**3.3(3) *Date of filing petition.*** For purposes of Iowa Code subsection 17.19(1), a petition for declaratory ruling shall be deemed filed upon actual filing of the original petition with the division or upon the actual filing of an amended petition, whichever is later.

**185—3.4(123,17A) Briefs and other supporting communications.**

**3.4(1) *Petitioner.*** The petitioner may file with the division a brief memorandum or other material in support of the petitioner's position on the question presented in the declaratory ruling. The original and three copies of the briefs, memoranda, or other materials shall be filed with the division at the time the petition is filed.

**3.4(2) *Other communications prohibited.*** Except for these documents permitted to be filed as hereinbefore set forth, no other communications shall be filed with the division concerning a petition for declaratory ruling, no hearing shall be permitted in considering the disposition of a petition for declaratory ruling and no oral argument shall be permitted in considering the disposition of a petition for declaratory ruling.

**185—3.5(123,17A) Action by the division.** The division shall issue a declaratory ruling or dismiss the petition within 30 days of the filing. The ruling or dismissal shall state the reasons for the decision.

**185—3.6(123,17A) Dismissal.** The division may, in its discretion, dismiss the petition for any reason which it deems just and proper, including but not limited to the following:

1. The petitioner does not state facts showing that the petitioner is or will be aggrieved or adversely affected by any adverse declaratory ruling on the issue presented.
2. The petitioner requests a declaratory ruling on an issue presently under investigation or in litigation in a contested case or court proceeding.
3. The petitioner presents an issue or issues, or fact or facts which are insufficiently specific or overbroad or otherwise inappropriate as a basis upon which to issue a declaratory ruling.
4. The petition discloses that the petitioner seeks to obtain division approval to engage in activities that are so borderline as to raise questions of legality, though marginally proper.
5. The petitioner presents an issue upon where the issuance of a declaratory ruling has been rendered unnecessary as a result of a change in circumstance, fact or law.
6. The petitioner discloses that the petitioner has no interest in the subject matter of the requested declaratory ruling beyond mere curiosity.

7. The petitioner presents an issue for which the issuance of a declaratory ruling depends upon peculiar facts which cannot be predicted or adequately described in advance.

8. The petitioner presents an issue that requires the analysis of so many complex factors that it is impractical to attempt to resolve the matter by declaratory ruling.

9. The petitioner requests a declaratory ruling which, though technically binding only upon the division and the petitioner, would necessarily determine the legal rights of other persons who have not filed such a petition whose position on the issue may fairly be presumed to be adverse to the petitioner, or who are unrepresented in the declaratory ruling proceeding.

**185—3.7(123,17A) Effect of a decision.** A declaratory ruling shall have the same status as an order or decision in a contested case, and shall be considered final for the purposes of judicial review.

These rules are intended to implement Iowa Code sections 123.4, 123.21 and 17A.9.

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\*See Alcoholic Beverages Division, IAB 7/30/86